

Memorandum

To: Region Chiefs
Unit Chiefs
Resource Management Staff

Date: October 5, 2012

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From: William E. Snyder, Deputy Director
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Department of Forestry and Fire Protection

Subject: Nonindustrial Timber Management Plans: Information from Registered Professional Foresters related to Water Quality and Cumulative Impacts

Registered professional foresters (RPF) are required by regulation [Title 14 California Code of Regulations (CCR) §§ 1090.7(h) and (i)] and statute [Public Resources Code (PRC) § 4594(g)] to provide the department with specific statements prior to any harvest to be conducted under a Notice of Timber Operations (NTO) within the boundary of an approved nonindustrial timber management plan (NTMP) verifying that:

1. there have been no listed species discovered in the cumulative impacts assessment area since approval of the NTMP and
2. there have been no physical environmental changes in the cumulative impacts assessment area that are so significant that an amendment to the TMP would be required.

In addition, the RPF is required pursuant to 14 CCR 1090.7 (I) to certify that the NTO as submitted will:

1. carry out best management practices for the protection of the beneficial uses of water, soil stability, forest productivity and wildlife as required by the current rules of the Board or
2. is consistent with the plan and will not result in degradation of the beneficial uses of water, soil stability, forest productivity, or wildlife or be in violation of applicable legal requirements.

This memorandum is intended to provide clarification regarding the difference in noticing requirements described in the Act and Rules adopted by the Board of Forestry and Fire Protection (Board) in 1995, and how the cumulative impact assessment evaluation area melds with the North Coast Regional Water Quality Control Board's (NCRWQCB) waste discharge requirements (GWDR) and waivers of waste discharge requirements when considering the beneficial uses of water
http://www.waterboards.ca.gov/northcoast/water_issues/programs/timber_operations/. Understanding this relationship is important to avoid confusion by RPFs, the public, CAL FIRE staff and the NCRWQCB.

The following statutes and regulations pertain to this discussion:

PRC 4594 (f): A statement that no rare, threatened, or endangered plant or animal species has been discovered in the harvest area since the approval of the nonindustrial timber management plan.

PRC 4594 (g): A statement that there have been no physical environmental changes in the harvest area that are so significant as to require any amendment of the nonindustrial timber harvest plan.

14 CCR 1090.7 (h): A statement that no listed species has been discovered in the cumulative impacts assessment area since the approval of the NTMP.

14 CCR 1090.7 (i): A statement that there have been no physical environmental changes in the cumulative impacts assessment area that are so significant as to require any amendment of the NTMP.

When the NTMP enabling legislation was passed shortly after 1990, the Board's Rule Sections 1090.7(h) and (i) complimented PRC 4594(f) and (g), in that both the PRC and FPRs required the RPF to focus on the "harvest area". This changed in 1995 when the Board revised the CCR 1090.7(h) and (i) to require that the RPF consider evaluation of "*the cumulative impacts assessment area*". Thus, after 1995 these NTO rule sections required a larger scope of evaluation to be completed by an RPF to meet the requirements of 14 CCR 1090.7(h) and (i).

Since the rule change in 1995, RPFs who submit NTOs, at a minimum, have been expected to base their evaluation and statements pursuant to §§ 1090.7(h) and (i) on the approved NTMP's biological assessment area(s) and planning watershed(s). Furthermore, RPFs were expected to not limit their evaluation and certification per § 1090.7(l)(1) or (l)(2) to only the area proposed for harvest in any given year (if the harvest area in the NTO is less than the entire NTMP acreage). Instead, the § 1090.7(l) certifications should consider the entire NTMP acreage, including all features connected with the CEQA project, such as appurtenant roads, roads identified on the NTMP, water drafting sites, landings, etc..

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The exception to the noticing requirements described above are for NTMPs approved prior to the aforementioned 1995 Rule change by the Board. NTMPs approved prior to January 1, 1996 are not required to consider the *cumulative impact assessment area* when addressing subsections (h) and (i); however, RPFs are advised to apply the current regulation as stated above for any NTMP located within jurisdiction of the North Coast Regional Water Quality Control Board to facilitate enrollment under Water board WDRs or Waivers.

To provide the noticing requirements that satisfy both CAL FIRE and the North Coast Regional Water Quality Control Board, RPF's are encouraged to utilize the NTO Form provided on the department's website

(http://www.fire.ca.gov/resource_mgt/downloads/NTMP_NoticeofTimberOperations_12-11.pdf).